IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Regarding: John C. Montagna et al.
Serial No. 10/696,342
Filing Date 10/29/2003
For PULL OUT DRAWER SYSTEM

Petition to Instruct Examiner to Enter Amendment

Attention: Group Art Unit 3612
Supervisor of Examiner Dennis H. Pedder

M.S. AF, Commissioner for Patents, Alexandria, VA 22313-1450:

Please, if the Examiner would refuse to enter an accompanying AF Amendment Per Putative Final Status, which refers to this paper, instruct the Examiner to do so. Reconsideration has been requested of the Examiner, and the amendment should be entered.

For one thing, the final status set forth in the 01/19/2005 Office action is PREMATURE. The 09/02/2004 Office action, the first, set forth rejections under 35 USC 102(b) and 103(a), which were answered by amendment and argument. The undersigned even noted that there was common ownership with the applied patent although such is insufficient to rebut a Sec. 102(b) rejection. The 01/19/2005 Office action set forth new rejections under Sec. 102(e) and 103(a) with the same patent applied under Sec. 102(b), but made final. The new rejections were not caused by amendment, and should have been made in the first action on the merits.

For another, the amendments submitted herewith (as well as on March 21, 2005) import no matter previously not considered from the amendments filed in reply to the non-final action. If any matter were not expresly set forth in those claims, it merely addresses matters of simple form as requested by the Examiner. Thus, nothing new need be considered, for example, in claim 27, which imports limitations from claims 26, 28, 29 and 31.

Furthermore, the Examiner would refuse to enter the amendment, as stated in his 04/05/2005 Advisory Action and over the phone during interviews (noting the interview summaries found on the introductory pages of the amendments filed on March 21, 2005 and concurrently herewith), because he thought that there was additional art that could be applied. This is most improper. If any such art was known to or contemplated by the Examiner, it should have been applied initially or as soon as he knew of it. That the Examiner claims to have little time to examine a case is no good reason to refuse to apply art. The full fee for a full examination has been paid. Note especialy here, the inverted U-channel limitation in old claim 1, which now would be removed from the main claim. See, the Advisory action, page 2.

The amendment places the case in condition for allowance.

Respectfully submitted,

Dated: April 15, 2005 A.D.

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